BORA LASKIN LAW LIBRARY
3 1761 10084671 6

Materials

on

LABOUR ARBITRATION

IN

CANADA

Volume 2

Faculty of Law
University of Toronto

February, 1988

Storage
KF
3423
M37
1988
v.2

Storage

LAW LIBRARY
FEB 29 1988
FACULTY OF LAW
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY
UNIVERSITY OF TORONTO

Materials

on

LABOUR ARBITRATION

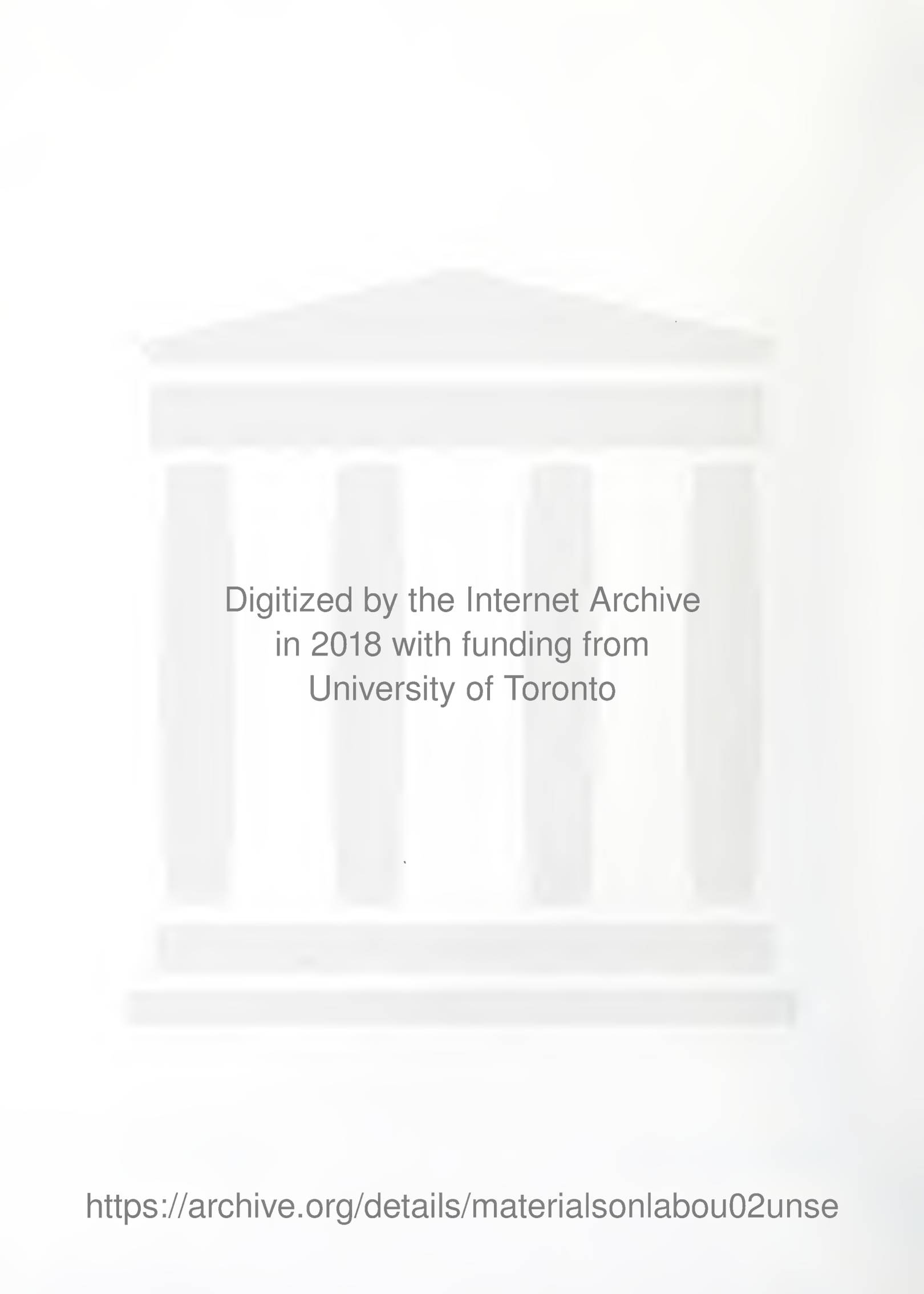
IN

CANADA

Volume 2

Faculty of Law
University of Toronto

February, 1988


Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/materialsonlabou02unse

TABLE OF CONTENTS (volume 2)

Topic 13. Discovery Procedures 129

Topic 14. Procedural Defects Denying Arbitrability: Preliminary Objections 132

A. The Arbitrator's Power of Determination 132

B. The Formal Grievance Documents as Defining the Arbitrable Issue 132

C. Individual v. Union or Employer Grievances 135

D. Timeliness 146

E. Grievor No Longer Wishes to Proceed 161

F. One Hearing or Two? 168

Topic 15. The End of Arbitral Authority: "Functus Officio" . . . 171

Topic 16. Seniority 175

A. Introduction 175

B. Application of Seniority 178

C. Accumulation of Seniority 183

D. Termination of Seniority 189

E. Promotion and Layoff Out of Seniority: Problems of Arbitral Review 194

Topic 17. Management's Rights and Industrial Change 212

A. Introduction 212

B. Subcontracting 215

C. Work Assignment 222

D. Compulsory Retirement 231

E. Other Issues 243

Topic 18. Disciplinary and Non-Disciplinary Responses of Employer to Employee's Conduct 243

A. The Spectrum of the Employer's Possible Responses . . .243

B. Theories of Disciplinary Responses 263

C. Some Examples of Occasions for Discipline 264

D. Due Process Limitations on Discipline 279

E. Arbitral Authority to Review the Employer's Response 286

F. Arbitral Authority to Modify the Employer's Response 290

G. Arbitral Standards for Assessing Propriety of the Employer's Response 291

Topic 19. Judicial Intervention in the Labour Arbitration Process 322

A. Judicial Enforcement of the Award 322

B. Judicial Review of the Award 324